

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 716 and 717 of)	CG Docket 10-213
The Communications Act of 1934, as Enacted)	
by the Twenty-First Century Communications)	
and Video Accessibility Act of 2010)	

COMMENTS ON PUBLIC NOTICE

**Telecommunications for the Deaf and Hard of Hearing, Inc.
National Association of the Deaf
Deaf and Hard of Hearing Consumer Advocacy Network
Association of Late-Deafened Adults, Inc.
Hearing Loss Association of America
Cerebral Palsy and Deaf Organization
Deaf Seniors of America
National Association of State Agencies of the Deaf and Hard of Hearing, Inc.
Deaf/Hard of Hearing Technology-RERC
Universal Interface & Information Technology Access-RERC
National Association of State Relay Administration
Telecommunications Equipment Distribution Program Association**

Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Hearing Loss Association of America, Cerebral Palsy and Deaf Organization, Deaf Seniors of America, and National Association of State Agencies of the Deaf and Hard of Hearing, Inc. (collectively “Consumer Groups”), the Deaf/Hard of Hearing Technology RERC and Universal Interface & Information Technology Access RERC (together, the “RERCs”), and National Association of State Relay Administration (“NASRA”) and Telecommunications Equipment Distribution Program Association (“TEDPA”) (the Consumer Groups, RERCs, NASRA and TEDPA collectively, the “Commenters”) submit these brief comments in response to the Federal Communication Commission’s (“Commission”) Public Notice released on August 9,

2018,¹ seeking comments on its tentative finds for the 2018 biennial report to Congress required by the Twenty-First Century Communications and Accessibility Act of 2010 (“CVAA”). As specified in the Public Notice, Commenters have identified the specific findings on which they are commenting and have adhered to the organization and structure of the Public Notice.²

I. COMPLIANCE WITH SECTIONS 255, 716, 718

A. Accessibility

1. Sections 255 and 716: Telecommunications and Advanced Communications Services and Equipment – Accessibility Improvements

Commenters are commenting on the Commission’s tentative finding that “over the past two years, there have been continued improvements in the accessibility of telecommunications services and advanced communications services (ACS) and equipment” that is based on “improved access to the telecommunications and ACS features of smartphones and other devices for people with a wide range of disabilities.”³ The Commission bases its finding on information in the record that “wireless service providers offer a wide range of service plans designed to meet the specific needs of people with disabilities” including “accessibility plans” for customers that want “data-only plans.”⁴ Although Commenters agree that improvements have occurred, the Commission should acknowledge and address the concerns raised by Commenters about the cost of smartphone plans with unlimited data, data caps and metering plans.

¹ Implementation of Section 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications Video Accessibility Act of 2010, CG Docket No. 10-213, *Public Notice*, DA 18-832 (rel. Aug. 9, 2018).

² *Id.* at ¶¶5, 11.

³ *Id.* at Attachment, ¶2. Although the Commission acknowledges that accessibility gaps continue to exist in another tentative finding, the Commission appears to limit that tentative finding to non-smartphones, accessible alerting features on video calls and devices for people who are deaf-blind. Attachment, ¶6.

⁴ *Id.* at Attachment, ¶4.

As Commenters pointed out in their earlier comments, deaf and hard of hearing users disproportionately use data for daily and routine communications out of necessity as compared to hearing users.⁵ As a result, deaf and hard of hearing users, deaf-blind users and users with mobility disabilities are forced to choose between more expensive smartphone plans with unlimited data (even when the data used for non-routine communications is minimal) that may be unaffordable, or less expensive, affordable smartphone plans with data caps that are insufficient to meet their communications needs. This choice is made more difficult because such users rely on data and video services that require more expensive smartphone devices.

In addition, while many more wireless service plans include unlimited data today as compared to two years ago, such plans are often significantly more expensive or contain provisions that allow the wireless provider to “throttle” or meter heavy data users. Even “accessibility plans” that may be offered by some providers can contain provisions that allow the wireless provider to “throttle” or meter heavy data users. If some mechanism cannot be determined to identify and separate communication data usage from other usage, then allowance for communication load on data plans for those who must rely on them (at **both** ends of the conversation) should be made. Universal inclusion of video as a standard part of unlimited phone call plans (and support by VRS) should also be explored – since it would allow separation of video for communication from other usage.

For these reasons, the Commission should modify its tentative findings to recognize that more progress is needed regarding the cost of smartphone plans with unlimited data, data caps and metering plans to improve accessibility for deaf and hard of hearing users, deaf-blind users and users with mobility disabilities.

⁵ Commenters’ Comments on Public Notice, CG Docket 10-213, at p. 12, dated May 3, 2018 (“Comments”).

II. ACCESSIBILITY BARRIERS TO NEW COMMUNICATIONS TECHNOLOGIES

Commenters are commenting on the Commission's tentative finding that some accessibility concerns remain for new communications and other technologies.⁶ Commenters recommend that the Commission should address in this section three points previously raised by Commenters.

First, the Report should note the progress made with respect to Real-Time-Text ("RTT") as an alternative to current-generation TTY technology. It should specifically identify the Disability Advisory Committee ("DAC") recommendations with respect to RTT and the progress made to meet those recommendations including the technical and practical challenges of supporting compatibility of RTT with refreshable Braille display and ways to introduce and support the integration of RTT into TRS operation.⁷ We emphasize the importance of incorporating RTT into the native phone capabilities of smartphones as Apple has done, rather than prolonged use of separate apps, which should only be used for the startup year due to all the usability limitations of making and/or receiving calls from a separate app.

Second, the Report should acknowledge that Text-to-911 is a critical accessibility method for deaf and hard of hearing persons to reach emergency services.⁸ It should also acknowledge that more progress is needed since only 939 PSAPs have implemented Text-to-911, which is less than 11 percent of all PSAPs.⁹

Third, the Commission should include information in the Report about the industry members who have requested waivers because accessibility is not achievable to provide a more

⁶ *Public Notice* at Attachment, ¶17.

⁷ Comments at p. 2-3.

⁸ *Id.* at p. 6.

⁹ See https://transition.fcc.gov/pshs/911/Text911PSAP/Text_911_Master_PSAP_Registry.xlsx. Based on the number of PSAPs listed in the Commission's 911 Master PSAP Registry, we understand there are approximately 8565 PSAPs. See <https://www.fcc.gov/general/9-1-1-master-psap-registry>.

accurate picture to Congress of the level of collaboration between industry and consumers in the design, development and marketing stages of new products and services.

III. CONCLUSION

The Commenters appreciate the opportunity to submit comments with respect to this important Report. We look forward to continuing our work with the Commission to assure accessibility requirements are met under the CVAA and other laws.

Respectfully submitted,

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